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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

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12 Denard Darnell Neal,)
13 Petitioner,) No. CR-90-03-PHX RCB
14 Vs.) O R D E R
15 United States of America,)
16 Respondent.)
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18 On February 24, 2006, Petitioner Denard Darnell Neal filed an
19 *ex parte* motion to vacate void judgment. Mot. (doc. 158).
20 Thereafter, on May 3, 2006, Neal filed another *ex parte* motion
21 requesting notification of the status of his prior motion to vacate
22 judgment. Mot. Status (doc. 166). After reviewing Neal's motions,
23 the Court, on May 17, 2006, issued an order finding no reason for
24 the motions to be dealt with on an *ex parte* basis. Order (doc.
25 167).¹ Accordingly, the Court ordered the Clerk to transmit copies

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27 ¹The Court notes that the original order regarding these matters
28 was mistakenly filed with the incorrect date of "17th day of May
2005" instead of "2006." Order (doc. 167). On June 6, 2006, Neal

1 of the motions to the United States Attorney for appropriate
2 response. Id. at 2. The Government filed its responses to Neal's
3 motions on June 6, 2006. (docs. 168 & 169).

4 Generally, Neal's motion to vacate the judgment is an attack
5 on his 1990 criminal conviction. It is not clear to the Court upon
6 what basis Neal believes his conviction can and should be vacated.
7 Neal spends the majority of his motion arguing that the Court lacks
8 personal and subject matter jurisdiction over him because he was
9 not provided sufficient service of process, the United States is a
10 corporate franchise, he was not informed of the "nature or cause"
11 of the action against him, and because Denard Darnell Neal is a
12 "fictitious-corporate entity," thus requiring that all dealings
13 with such entity comply with the Uniform Commercial Code. Mot.
14 (doc. 158).

15 The Court shall construe Neal's filing as a Petition for Writ
16 of Habeas Corpus, under 28 U.S.C. § 2255. As such, this petition
17 was not properly filed. Neal has filed two prior section 2255
18 petitions and one Rule 60(b) motion which was construed as a
19 section 2255 petition. (docs. 95, 126, 137 and 147). Section 2255
20 provides that a second or successive motion made pursuant to that
21 section must be certified by a panel of the appropriate court of
22 appeals to contain newly discovered evidence or a new rule of
23 constitutional law. See 28 U.S.C. § 2255. Until the Ninth Circuit
24 Court of Appeals certifies that a second or successive petition may

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26 filed a motion entitled "Motion for Re-Issue of Court Order Bearing
27 the Correct Date on Court Order," requesting that the Court amend the
28 date of its order and re-file it with the correct date. Mot. Amend.
Order (doc. 171). The Court shall grant Neal's motion to amend the
order.

1 be filed, this Court is without jurisdiction to consider Neal's
2 claims. See United States v. Allen, 157 F.3d 661, 664 (9th Cir.
3 1998).

4 Here, Neal has made no showing that a request for
5 certification was made or that authorization was granted by the
6 Ninth Circuit Court of Appeals. Consequently, Neal's *Ex Parte*
7 Motion to Vacate Void Judgment shall be denied. Since this Court
8 has now ruled on Neal's *Ex Parte* Motion to Vacate Void Judgment
9 (doc. 158), his *Ex Parte* Motion Requesting Status (doc. 166) is now
10 moot.

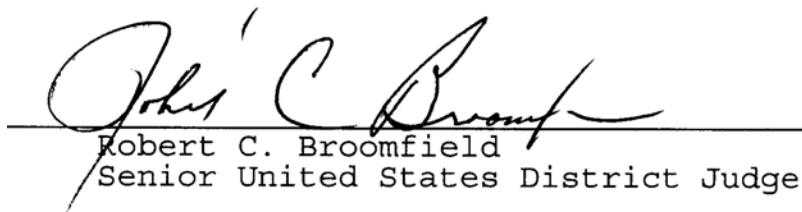
11 Therefore,

12 IT IS ORDERED that Neal's Motion for Re-Issue of Court Order
13 Bearing the Correct Date on Court Order (doc. 171) is GRANTED. The
14 date of the Court's Order regarding Neal's *Ex Parte* Motion to
15 Vacate Void Judgment, Motion to Exclude United States Attorney from
16 Presenting Argument, *Ex Parte* Motion Requesting Status, and Motion
17 to Transport (doc. 167) is amended to read "17th day of May, 2006."

18 IT IS FURTHER ORDERED that Neal's *Ex Parte* Motion to Vacate
19 Void Judgment (doc. 158) is DENIED.

20 IT IS FINALLY ORDERED that Neal's *Ex Parte* Motion Requesting
21 Status (doc. 166) is DENIED as moot.

22 DATED this 24th day of August, 2006.

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26 Robert C. Broomfield
Senior United States District Judge

27 Copies to counsel of record and Petitioner pro se.

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